

| | | | |
|-------------------------------|------------------------|---------------------|--|
| Notice of Allowability | Application No. | Applicant(s) | |
| | 09/602,440 | FISCHER ET AL. | |
| | Examiner | Art Unit | |
| | Humera N. Sheikh | 1615 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 15 May 2006.
2. ☒ The allowed claim(s) is/are 1 and 3-10.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____ 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____ |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

DETAILED ACTION

Status of the Application

Receipt of the Response and Amendment after Non-Final Office Action, Applicant's Arguments/Remarks and the request for extension of time (1 month-granted), all filed 05/15/2006 is acknowledged.

Claims 1 and 3-10 are pending in this action. Claims 1, 3, 4 and 10 have been amended. Claim 2 has previously been cancelled. Claims 1 and 3-10 are allowed.

EXAMINER'S AMENDMENT

The application has been amended as follows:

In the Specification:

On page 1, line 15, after the title of the invention, the following has been added: **"This application claims benefit of foreign priority to German Application No. 299 11 111.3 filed June 25, 1999"**.

On page 1, beginning on line 16, the title **"FIELD OF THE INVENTION"** has been added.

On page 1, line 19, the title "Introduction and state of the art" has been deleted and replaced with **"BACKGROUND OF THE INVENTION"**.

On page 2, beginning on line 17, the title “**SUMMARY OF THE INVENTION**” has been added.

On page 2, line 28, the title “Detailed description of the technical solution” has been changed to “**DETAILED DESCRIPTION OF THE INVENTION**”.

In the Abstract:

A new Abstract has been provided.

Allowable Subject Matter

Claims 1 and 3-10 are allowed.

The following is an examiner’s statement of reasons for allowance:

The primary reasons for allowance are that the prior art (Hoffman *et al.* – U.S. Pat. No. 5,538,736 & Mori – U.S. Pat. No. 5,695,779) does not disclose nor fairly suggest or teach a flat self-adhering plaster as instantly claimed that consists of a cover, a layer of adhesive, a ring of adhesive free of plasticizing additive and a removable carrier whereby the core is the only active ingredient or cosmetically active agent area. The instant invention requires only one (1) reservoir; an active agent area only provided in the core of the plaster. The instant ‘consisting of’ language excludes the additional reservoirs and components contained in the prior art plaster formulations. The prior art further fails to disclose or teach a plaster having reduced cold flow, whereby the degree of adhesion varies across the inner and outer parameters of the plaster.

In stark contrast, the prior art (Hoffman *et al.* ‘736) requires a first and second active substance reservoir. The prior art (Mori ‘779) also requires microcapsules that encapsulate drugs

Art Unit: 1615

as core material, as well as water-insoluble, rubber- and rubber solvent-insoluble water absorbing resin powder that is dispersed in the adhesive. The prior art fails to provide a flat self-adhering plaster as instantly claimed that provides for an active ingredient or cosmetically active agent area provided in the core only. The prior art also lacks in terms of varying degrees of adhesion across the plaster.

The instant invention demonstrates an improvement over prior art plaster formulations in that the instantly claimed plaster avoids the use of a combination of multiple adhesives and reservoir layers as employed in the art. The instant plaster provides for good adhesion and bonding properties with the skin.

Thus, in view of the improvements demonstrated by the instant invention and the lack of teachings by the prior art, the instant invention is rendered non-obvious and patentable over the cited art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Humera N. Sheikh whose telephone number is (571) 272-0604. The examiner can normally be reached on Monday through Friday from 8:00A.M. to 5:30P.M., alternate Fridays off.

Art Unit: 1615

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Humera N. Sheikh

Patent Examiner

Art Unit 1615

July 01, 2006

Humera N. Sheikh
TC-1600

hns